

**FIRST DAY—(Continued).**

Senate Chamber,  
Austin, Texas,  
October 18, 1935.

The Senate met at 10:00 o'clock a. m., pursuant to recess, and was called to order by President Pro Tem. W. R. Poage.

**Message from the House.**

The Chair recognized the Door-keeper, who introduced a messenger from the House with the following message:

Hall of the House of Representatives,  
Austin, Texas, Oct. 18, 1935.  
Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

H. B. No. 27, A bill to be entitled "An Act making an appropriation of the sum of One Hundred Thousand Dollars (\$100,000.00), or so much thereof as may be necessary, out of any funds in the State Treasury, not otherwise appropriated, to pay the contingent expenses, and to pay the per diem of members and the per diem of officers and employees of the Second Called Session of the Forty-fourth Legislature, and declaring an emergency."

Respectfully submitted,  
LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives

**Bill Referred.**

H. B. No. 27 was read and referred to the Committee on Finance.

**Adjournment.**

On motion of Senator Woodruff, the Senate, at 10:02 o'clock a. m., adjourned until 10:00 o'clock a. m. Monday.

**Votes Recorded.**

Senators Hornsby, Collie, Neal and Moore asked to be recorded as voting "no" on the motion to adjourn.

**SECOND DAY.**

Senate Chamber,  
Austin, Texas,  
October 21, 1935.

The Senate met at 10 o'clock a. m. pursuant to adjournment, and was called to order by Lieutenant Governor Walter F. Woodul.

The roll call disclosed a quorum, the following Senators being present:

|           |             |
|-----------|-------------|
| Beck.     | Nelson.     |
| Blackert. | Oneal.      |
| Burns.    | Pace.       |
| Collie.   | Poage.      |
| Cotten.   | Redditt.    |
| Davis.    | Regan.      |
| DeBerry.  | Sanderford. |
| Hill.     | Shivers.    |
| Holbrook. | Small.      |
| Hopkins.  | Stone.      |
| Hornsby.  | Sulak.      |
| Isbell.   | Van Zandt.  |
| Martin.   | Westerfeld. |
| Moore.    | Woodruff.   |
| Neal.     |             |

Absent—Excused.

Fellbaum. Rawlings

Prayer by the Chaplain.

Further reading of the Journal was dispensed with on motion of Senator Burns.

**Senators Excused.**

Senator Rawlings was excused on account of important business on motion of Senator Regan.

Senator Fellbaum was excused indefinitely on account of illness, on motion of Senator Davis.

**Bills and Resolutions.****Senate Resolution No. 3.**

Whereas, On August 24, 1935, at an election held for the purpose of permitting the people of Texas to vote on amendments to the Constitution, the voters decided the repeal of Constitutional prohibition and by an overwhelming majority adopted an amendment authorizing the Legislature to provide for Old Age Assistance to persons over 65 years of age; and,

Whereas, The Hon. James V. Allred, Governor of Texas, has called a special session of the Legislature for the express purpose of enacting an old-age pension law and providing revenue for the payment of old age pensions; and,

Whereas, He has called upon the Legislature to speedily enact an old age pension law and has demanded that sufficient revenue be provided to pay old age pensions; and,

Whereas, In his message to the

Legislature he states that property taxes must not be increased and has given warning that he will veto a general sales tax if that method of raising revenue for the payment of Old Age Assistance should be adopted by the Legislature; and,

Whereas, The Legislature of Texas for the last four years has been making strenuous efforts to reduce the burden of taxation on property so as to accelerate the revival of property values and aid the return of prosperity; and,

Whereas, The Governor will no doubt submit to the Legislature during this special session the subject of licensing and regulating the sale of intoxicating liquors within this State; and,

Whereas, The Governor is the chosen leader of the people of Texas, and endowed by the Constitution with the power to veto Legislation of which he disapproves; and,

Whereas, The veto of an Act to create an old age pension system or the veto of a law licensing and regulating the sale of intoxicating liquors will probably mean another special session of the Legislature with additional expense to the tax payers and the loss of much needed revenue; and,

Whereas, Such an eventuality may be avoided if the Legislature is advised by the Governor at this time as to the character of old age pension law and regulatory liquor bill that will meet with his approval; now, therefore,

Be It Resolved by the Senate of the State of Texas, That the Hon-James V. Allred, Governor of the State of Texas be requested to give to this body by message or other appropriate means his views upon the following questions, in order that the Legislature may more effectively cooperate with him and exercise its best efforts to avoid the veto of important Legislation. Assuming that other provisions of bill are fair and reasonable and meet with your approval.

1. Do you favor a law granting Old Age Assistance to all those over 65 years of age?

2. If you do not favor a law granting a pension to all persons over 65 years of age, what specific limitation will meet your approval?

3. Please advise us as to whether

or not you approve the enactment of such a law as will limit Old Age Assistance benefits to those having less than a designated amount of property, and if you approve such a property limitation, will you give us your views as to the amount of property in value which should render a person over 65 years of age ineligible to receive old-age assistance?

4. Please advise us as to whether or not you approve the enactment of a law limiting Old Age Assistance benefits to those having less than a designated monthly or annual income, and if you approve such an income limitation, will you give us the benefit of your views as to the amount of monthly or annual income which should render a person over 65 years of age ineligible to receive Old Age Assistance?

5. Do you favor the enactment of a law providing for both a property limitation and an income limitation?

6. Will you advise us specifically as to the character of law regulating and licensing the sale of intoxicating liquor that will meet with your approval?

Be It Further Resolved that a copy of this resolution be furnished forthwith to the Governor, Hon. James V. Allred.

MARTIN.

Read.

Senator Martin asked unanimous consent to suspend the rule requiring resolutions be referred to a committee.

Objections were heard.

Senator Martin moved to suspend the rule requiring resolutions be referred to a committee.

The motion lost by the following vote:

Yeas—8.

|           |             |
|-----------|-------------|
| Cotten.   | Moore.      |
| Holbrook. | Sanderford. |
| Hopkins.  | Stone.      |
| Martin.   | Sulak.      |

Nays—19.

|           |          |
|-----------|----------|
| Blackert. | Isbell.  |
| Burns.    | Neal.    |
| Collie.   | Oneal.   |
| Davis.    | Pace.    |
| DeBerry.  | Poage.   |
| Hill.     | Redditt. |
| Hornsby.  | Regan.   |

Shivers.  
Small.  
Van Zandt.

Westerfeld.  
Woodruff.

Absent.

Beck. Nelson.

Absent—Excused.

Fellbaum. Rawlings.

S. R. No. 3 was referred to the Committee on Finance.

#### Message From the Governor.

The Chair recognized the Door-keeper, who introduced a messenger from the Governor with the following message:

Committee Room,  
Austin, Texas, Oct. 21, 1935.  
To the Senate of the Forty-fourth Legislature, In Second Called Session:

I ask the advice, consent and confirmation of the Senate to the following appointments:

To Be Members of the Board of Directors of the Pease River Flood Control District:

Six-year term:

E. R. Brown, of Electra, Wichita County;

R. H. Nichols, of Vernon, Wilbarger County;

M. S. Henry, of Crowell, Foard County.

Four-year terms:

Harry Koch, of Quanah, Hardeman County;

Dr. Hines Clark, of Crowell, Foard County;

J. H. Allison, of Wichita Falls, Wichita County.

Two-year terms:

W. O. Jones, Sr., of Paducah, Cottle County;

C. E. Carlock, of Chillicothe, Hardeman County;

T. Edgar Johnson, of Vernon, Wilbarger County.

Respectfully submitted,

JAMES V. ALLRED,  
Governor of Texas.

Read and referred to the Committee on Governor's Nominations.

#### Message From the House.

The Chair recognized the Door-keeper, who introduced a messenger

from the House, with the following message:

Hall of the House of Representatives,  
Austin, Texas, Oct. 21, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

H. B. No. 15, A bill to be entitled "An Act to amend Article 2785 so as to provide that notices of election shall be posted for 10 days and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

#### Senate Bill No. 1.

The Chair laid before the Senate on its second reading the following bill:

By Senators Sanderford, Martin and Davis:

S. B. No. 1, A bill to be entitled "An Act creating a fund for Old Age Assistance; creating a Division of Public Welfare as a part of the Board of Control; granting Old Age Assistance to resident citizens of the State of Texas over the age of 65 years and prescribing the qualifications prerequisite to such assistance; prescribing the requirements of applications therefor; providing for a hearing upon such application, the approval thereof and the placing of the name of the applicant upon the Old Age Assistance rolls; prescribing the time of payment of such assistance; how the amount thereof may be determined and the method in which the fund shall be allocated; providing for the administration of the fund to incompetent claimants; providing for the discontinuance of Old Age Assistance where improperly granted; providing that such payments shall not be subject to debts, and making it an offense to obtain such assistance by false statements, etc., and prescribing penalty therefor; providing that said Act shall be a General Law; that the State shall financially participate in the plan and that the plan shall be administered by the Board of Control through the director of the Division of Public Welfare; providing that the director shall make reports to the Social Security Board of the

United States, and providing that any sums of money collected as an estate tax shall be equally divided between the United States and the State of Texas; etc., and declaring an emergency."

(With committee amendments.)

#### Committee Amendment No. 1.

Amend S. B. No. 1 by striking out any and all provisions which undertake to provide pensions for every person over sixty-five years of age, without regard to the needs of such persons.

Read.

#### Point of Order.

Senator DeBerry raised the point of order that Committee Amendment No. 1 was out of order as it was too indefinite and not specific.

The Chair ruled the amendment out of order as not being specific.

#### Committee Amendment No. 2.

Amend S. B. No. 1 by striking out all that part of the bill providing for a sales tax, (Sections 34 to 79, inclusive).

Read.

A second reading called for.  
Pending.

#### Point of Order.

Senator Sanderford raised the point of order that Amendment No. 2 was out of order as being too indefinite.

Senator Sanderford withdrew his point of order temporarily.

Senator Shivers was recognized and moved to lay S. B. No. 1 and amendments on the table subject to call, so as to take up S. B. No. 2.

Senator Shivers withdrew his motion temporarily.

Senator Sanderford was recognized for discussion of the pending amendment.

#### Motion to Table.

Senator Sanderford moved to table Committee Amendment No. 2.

Senator Sanderford withdrew his motion.

Senator Poage sent up the following substitute for Committee Amendment No. 2:

Amend S. B. No. 1, Section 35,

and succeeding Section, by striking out all of Sections 35 through Section 81 and by inserting in lieu thereof the following:

Sec. 35. For the purpose of creating a special fund in State Treasury of this State to be used for the payment of old age pensions and/or old age assistance and for the purpose of paying the pensions and benefits provided by this Act and for the further purpose of reducing the number of needy citizens over sixty-five years of age in this State, it is determined to be the policy of this State to abandon the State ad valorem tax and the present occupation taxes on the production of sulphur, oil and gas, to the extent hereinafter set out and no further, and to substitute therefor an occupation tax on all producers of sulphur, oil and gas in the amount of ten per cent of the value of all such minerals produced as hereinafter fully set out and levied.

Sec. 36. On and after January 1st, 1936, no State ad valorem tax shall be levied or collected for the benefit of the general revenue fund or for the benefit of the available free school fund, and on and after such date no ad valorem tax shall be levied or collected for State purposes, save and except a tax of seven cents on the one hundred dollars for the payment of Confederate pensions as heretofore provided by law; provided, however, that nothing herein shall be construed so as to prohibit the collection of any taxes that may have accrued prior to the first day of January, 1936, but all such taxes shall be and remain valid obligations collectible as now provided by law.

Sec. 37. Section 1 of Chapter 212, Acts of 42nd Legislature, page 355, and Chapter 162, page 409 of the Acts of the 43rd Legislature, as amended by Chapter 12, page 43 of the Acts of the First Called Session of the 43rd Legislature, and Chapter 73, page 111, of the Acts of the 42nd Legislature be and the same are all hereby amended so as to read as follows:

"On and after the first day of January 1936, every person or persons, corporation, partnership, individual, trustee, receiver, trust estate, executor, and/or administrator owning, controlling, manag-

ing, leasing, and/or operating any mine, well, shaft, or other device whereby sulphur, and/or oil and/or gas is produced in any manner from the earth or waters in this State shall make monthly, on the 25th day of each and every calendar month of each year, a report to the State Comptroller of Public Accounts on such forms as the Comptroller shall prescribe, and sworn by such person before an officer authorized to administer oaths in the State, or if such person be other than a natural person, sworn to by its president, secretary or other duly authorized officer, which report shall show the total amount of sulphur, oil and gas produced within this State by said person during the calendar month next proceeding, and at the time of making such report shall pay to the Treasurer of this State as an occupation tax for the month covered by said report, an amount equal to 10% of the market value of said sulphur, oil and gas, which market value shall be the actual market value thereof plus any bonus or premium or other thing of value paid therefor, or which said sulphur, and/or oil and/or gas does or will reasonably bring if produced in accordance with the laws, rules and regulations of the State of Texas."

Sec. 38. There is hereby levied an occupation tax on all producers, as said term is hereinafter defined, of 10% of the market value of all sulphur, and/or of oil and/or of gas produced in this State as hereinabove set out. Said tax shall be computed upon the total number of tons of sulphur, and of barrels of oil, and of cubic feet of gas produced or salvaged from the earth or waters of this State, without any deductions, and said tax shall be a liability of the producer of any sulphur and/or oil and/or gas, and it shall be the duty of such person to keep accurate records of all of such minerals produced, making monthly reports under oath, as hereinbefore provided. The purchaser of such minerals shall pay the tax aforedescribed on all such minerals purchased and deduct the tax so paid from the payment due the producer or other interest holder, remitting such payments so deducted to the Comptroller of Public Accounts in legal tender or cashier's check pay-

able to the Treasurer of this State, and when such purchaser shall have made such remittance and payment, the producer of such minerals shall be relieved of paying the tax set out in Section 2 hereof to the extent of such payments, but no further, and it shall be the duty of such producer to secure from such purchaser a receipt from the Comptroller of Public Accounts for all of such payments and to attach same to the monthly report required in Section 2 hereof, and such purchaser shall be entitled to no greater deduction in said tax than the amount evidenced by such receipts so attached. Provided further that if any sulphur and/or oil and/or gas produced is not sold within the calendar month in which it may be produced, then the producer thereof shall pay the entire tax thereon at the same rate and in the same manner as if such minerals had been sold; provided further that unless such payment of tax on all of the aforementioned minerals produced during any month or fractional part thereof shall have been made on or before the 25th day of the month immediately following such payment, shall become delinquent and a penalty of 10% of the amount of the tax shall be added, and such tax and penalty shall bear interest at the rate of 6% per annum from the date due until paid. The tax hereby levied shall be borne rateably by all interested parties, including royalty interests; and producers and/or purchasers of the minerals aforementioned are hereby authorized and required to withhold from any payment due interested parties, the proportionate tax due.

Sec. 39. (1) Producers and/or purchasers of the aforementioned minerals shall keep in Texas a complete record of all such minerals produced and a record of all such minerals sold; reports shall be filed with the Comptroller monthly by producers and purchasers, not later than the 25th of each calendar month, showing the amount of minerals produced and the amount of minerals sold during the month preceding, upon forms furnished by the Comptroller.

(2) All railroads, barges, trucks and/or pipe lines, carrying or transporting such minerals for hire, for

themselves or their owners shall keep in Texas a complete and accurate record of all minerals so handled by months, showing date received, number of tons, barrels, and cubic feet, by whom received, point of delivery, to whom delivered and manner of transportation and such records shall be open to the inspection of the duly authorized agents of the Comptroller or the Attorney General at all times, and, if requested by the Comptroller, shall furnish information and reports of movements as often as required by the Comptroller.

Sec. 40. Purchasers buying any such minerals from properties in litigation or in receivership, bankruptcy, or any other legal proceedings, or covered by assignments, are required to deduct the amount of the taxes levied by this Act, before payment is made to the producers, trustees, assignees or to any person who claims ownership of said funds, or before the proceeds of said purchase of any such minerals is impounded or escrowed by said purchaser pending such litigation or tenure of assignments, and shall remit said tax deducted in the same manner as if said minerals had been purchased from any other source; and providing that said purchaser shall not be liable to any claimant of said funds on account of payment of said tax.

Sec. 41. (1) Monthly reports by producers shall be filed with the Comptroller upon such forms as may be designated by that official, showing the total number of tons, barrels and cubic feet of any such minerals produced monthly, the name of the county from which produced, the name of the lease from which produced, the disposition made of such minerals if sold, the name and correct address of the purchaser, and if not sold, the location of storage, if owned by such operator, or if stored with a pipe line or a refinery, the correct name and address of such pipe line or refinery. All reports so made shall be duly sworn to by the producer or his authorized agent.

(2) Purchasers of any such minerals shall accompany the remittance for taxes deducted from settlements as provided herein, with a statement or report in a form to be prescribed

by the Comptroller, showing complete information requested in such form, including name and address of producer from whom such minerals were purchased; name of the county from which such minerals were produced; name of the lease and the total amount purchased.

Sec. 42. For the occupation tax, penalties and interest herein provided for, the State shall have a ~~preference~~ preferred lien on any leasehold interest, ownership of the mineral rights, or interest, including minerals produced and/or run owned by the person owing any tax therein; and in addition thereto such lien shall include equipment, tools, tanks, and all other implements used on said lease and/or premises from which such minerals are produced.

Sec. 43. It shall be the duty of the Attorney General to bring legal action for the collection of delinquent taxes herein levied, and any suit instituted for such purpose shall attach to any such minerals in storage, in transit, or being produced by such operator, and venue ~~for~~ such suits herein provided shall be in the District Court of Travis County, Texas.

Sec. 44. It shall be the duty of the Comptroller to promulgate rules and regulations governing the detail administration of the terms and requirements of this Act not specifically mentioned herein; to employ auditors or tax supervisors for the purpose of verifying reports and investigating the affairs of producers and/or purchasers to determine whether the tax is being properly reported and paid; to provide the necessary office help and equipment for the proper execution of the provisions of this Act, and for the purpose of defraying the necessary expense of said administration, including salaries of supervisors, auditors, office help, filing equipment, typewriters and supplies, printing of forms, publication of regulations, postage, telephone and telegraph, traveling expenses of employees, and traveling expenses of witnesses not otherwise paid; and that all of the sums heretofore appropriated for the fiscal years beginning on September 1, 1935 and September 1st, 1936, for the enforcement of the present occupation tax on the production of

sulphur, and the present occupation tax on the production of oil, and the present occupation tax on the production of natural gas, are hereby reappropriated for the purpose of enforcing the provisions of this Act, provided that no salaries shall be paid out of said re-appropriated funds in excess of the amount of the salaries heretofore provided.

Sec. 45. For the purpose of this Act "producer" shall mean any person or persons, corporation, partnership, individual, trustee, receiver, trust estate, executor or administrator owning, controlling, managing, leasing or operating any mine and/or well in this State from which is produced sulphur, oil or gas, and shall also mean and include any person who produces in any manner any sulphur, oil or gas by taking it from the earth or waters in this State.

(2) "Purchaser" shall mean any individual, person or persons, partnership, corporation, refinery, pipe line, or agent purchasing any sulphur and/or crude oil and/or gas for any purpose or use within this State.

(3) "Carrier" shall mean the operator or owner of any means of transporting any sulphur, oil or gas or any instrumentality that may now be used or come into use for the purpose of effecting such transportation.

(4) "Sulphur" as used herein shall mean any sulphur, whether in liquid, molten or solid state, produced or taken from the earth or waters of this State.

(5) "Oil" as used herein shall mean petroleum oil, mineral oil, or other oil taken from the earth.

(6) "Gas" and "Natural Gas" as such terms are used herein shall mean and include any and all inflammable gases produced or taken from the earth or from any strata under the earth.

(7) "Reports" shall mean any reports required to be furnished in this Act or that may be required by the Comptroller in the administration of this Act.

(8) "Person" shall mean and include any person, firm, concern, receiver, trustee, executor, administrator, agent, institution, association, partnership, company, corporation, and persons acting under declarations of trust as well as the

trustees acting under such declarations of trust.

(9) "Comptroller" shall mean Comptroller of Public Accounts of the State of Texas.

(10) "Minerals" shall mean and include sulphur, oil and natural gas.

Sec. 46. The taxes herein imposed and provided, when paid, shall be and are hereby allocated as follows, to wit:

All of the receipts from such tax shall be divided equally, as same are collected, between the general revenue fund of this State and the available free school fund of this State until the sum of Fifteen Million Dollars has been paid to each of such funds during each and every fiscal year; and after such sum of fifteen million dollars shall have been paid to each of such funds from the proceeds of such tax within any one fiscal year, all remaining proceeds of such tax shall be paid into a special fund in the State Treasury to be used for the payment of old age pensions and/or old age assistance.

Sec. 47. It is expressly declared to be the legislative intent that the several subdivisions of this Act are severable and should any Section or sub-Section of this Act be declared to be unconstitutional, it shall not effect the remaining provisions of this Act and the Legislature would have enacted such remaining provisions nevertheless, and they shall remain in full force and effect, save that it is further expressly provided that in event any of the tax hereby levied should for any reason be declared to be unconstitutional or void, then and in that event, it is the legislative intent that none of the statutes mentioned in Section — hereof would have been repealed, and the Legislature enacts this bill with the intention that, should any tax hereby levied be hereafter declared unconstitutional or void for any reason, the repeal provisions of Section — of this Act shall likewise be null and void.

Sec. 48. The fact that Constitution of Texas and recently amended by the vote of the people authorizes the Legislature to provide old age pension or assistance for the needy of this State over sixty-five years of age, and the fact that there are thousands of our citizens now in pressing need of such assistance, and

the further fact that in order to secure the revenues necessary to pay such assistance the State is compelled to revise and reform its taxing system so as to make our vast natural resources have a fair share of the burden, creates an emergency and an imperative public necessity, which requires that the Constitutional rule requiring bills to be read in each House on three separate days be suspended, and same is hereby suspended and this Act shall take effect and be in force from and after its passage and it is so enacted.

POAGE.

Pending.

Senator Poage yielded to Senator Burns for a privileged motion.

Recess.

On motion of Senator Burns the Senate at 11:59 o'clock a. m. recessed until 2 o'clock p. m.

After Recess.

The Senate met at 2 p. m. pursuant to recess and was called to order by Lieutenant Governor Walter F. Woodul.

Senate Bill No. 1.

Pending business was S. B. No. 1 with pending substitute amendment.

Senator Poage had the floor.

Point of Order.

Senator Oneal raised the point of order that the substitute was out of order as it is strictly a revenue measure and not even incidental to the bill, and for that reason under the constitution may not originate in the Senate.

The Chair, Lieutenant Governor Walter F. Woodul, sustained the point of order.

The question recurred on Committee amendment No. 2.

Senator Poage sent up the following substitute for Committee Amendment No. 2:

Amend S. B. No. 1 by striking out all below Section 33 and insert in lieu thereof the following:

Sec. 37. Section 1 of Chapter 212, Acts of 42nd Legislature, page 355, and Chapter 162, page 409 of the

Acts of the 43rd Legislature, as amended by Chapter 12, page 43 of the Acts of the First Called Session of the 43rd Legislature, and Chapter 73, page 111, of the Acts of the 42nd Legislature be and the same are all hereby amended so as to read as follows:

"On and after the first day of January 1936, every person or persons, corporation, partnership, individual, trustee, receiver, trust estate, executor, and/or administrator owning, controlling, managing, leasing, and/or operating any mine, well, shaft, or other device whereby sulphur, and/or oil and/or gas is produced in any manner from the earth or waters in this State shall make monthly, on the 25th day of each and every calendar month of each year, a report to the State Comptroller of Public Accounts on such forms as the Comptroller shall prescribe, and sworn by such person before an officer authorized to administer oaths in the State, or if such person be other than a natural person, sworn to by its president, secretary or other duly authorized officer, which report shall show the total amount of sulphur, oil and gas produced within this State by said person during the calendar month next preceding, and at the time of making such report shall pay to the Treasurer of this State as an occupation tax for the month covered by said report, an amount equal to 10% of the market value of said sulphur, oil and gas, which market value shall be the actual market value thereof plus any bonus or premium or other thing of value paid therefor, or which said sulphur, and/or oil and/or gas does or will reasonably bring if produced in accordance with the laws, rules and regulations of the State of Texas."

Sec. 38. There is hereby levied an occupation tax on all producers, as said term is hereinafter defined, of 10% of the market value of all sulphur, and/or or oil and/or of gas produced in this State as hereinabove set out. Said tax shall be computed upon the total number of tons of sulphur, and of barrels of oil, and of cubic feet of gas produced or salvaged from the earth or waters of this State, without any deductions, and said tax shall be a liability of the producer of any sulphur



and/or oil and/or gas, and it shall be the duty of such person to keep accurate records of all of such minerals produced, making monthly reports under oath, as hereinbefore provided. The purchaser of such minerals shall pay the tax afore-described on all such minerals purchased and deduct the tax so paid from the payment due the producer or other interest holder, remitting such payments so deducted to the Comptroller of Public Accounts in legal tender or cashier's check payable to the Treasurer of this State, and when such purchaser shall have made such remittance and payment, the producer of such minerals shall be relieved of paying the tax set out in Section 2 hereof to the extent of such payments, but no further, and it shall be the duty of such producer to secure from such purchaser a receipt from the Comptroller of Public Accounts for all of such payments and to attach same to the monthly report required in Section 2 hereof, and such purchaser shall be entitled to no greater deduction in said tax than the amount evidenced by such receipts so attached. Provided further that if any sulphur and/or oil and/or gas produced is not sold within the calendar month in which it may be produced, then the producer thereof shall pay the entire tax thereon at the same rate and in the same manner as if such minerals had been sold; provided further that unless such payment of tax on all of the aforementioned minerals produced during any month or fractional part thereof shall have been made on or before the 25th day of the month immediately following such payment, shall become delinquent and a penalty of 10% of the amount of the tax shall be added, and such tax and penalty shall bear interest at the rate of 6% per annum from the date due until paid. The tax hereby levied shall be borne rateably by all interested parties, including royalty interests; and producers and/or purchasers of the minerals aforementioned are hereby authorized and required to withhold from any payment due interested parties, the proportionate tax due.

Sec. 39. (1) Producers and/or purchasers of the aforementioned minerals shall keep in Texas a complete record of all such minerals

produced and a record of all such minerals sold; reports shall be filed with the Comptroller monthly by producers and purchasers, not later than the 25th of each calendar month, showing the amount of minerals produced and the amount of minerals sold during the month preceding, upon forms furnished by the Comptroller.

(2) All railroads, barges, trucks and/or pipe lines, carrying or transporting such minerals for hire, for themselves or their owners shall keep in Texas a complete and accurate record of all minerals so handled by months, showing date received, number of tons, barrels, and cubic feet, by whom received, point of delivery, to whom delivered and manner of transportation and such records shall be open to the inspection of the duly authorized agents of the Comptroller or the Attorney General at all times, and, if requested by the Comptroller, shall furnish information and reports of movements as often as required by the Comptroller.

Sec. 40. Purchasers buying any such minerals from properties in litigation or in receivership, bankruptcy, or any other legal proceedings, or covered by assignments, are required to deduct the amount of the taxes levied by this Act, before payment is made to the producers, trustees, assignees or to any person who claims ownership of said funds, or before the proceeds of said purchase of any such minerals is impounded or escrowed by said purchaser pending such litigation or tenure of assignments, and shall remit said tax deducted in the same manner as if said minerals had been purchased from any other source; and providing that said purchaser shall not be liable to any claimant of said funds on account of payment of said tax.

Sec. 41. (1) Monthly reports by producers shall be filed with the Comptroller upon such forms as may be designated by that official, showing the total number of tons, barrels and cubic feet of any such minerals produced monthly, the name of the county from which produced, the name of the lease from which produced, the disposition made of such minerals if sold, the name and correct address of the purchaser,

and if not sold, the location of storage, if owned by such operator, or if stored with a pipe line or a refinery, the correct name and address of such pipe line or refinery. All reports so made shall be duly sworn to by the producer or his authorized agent.

(2) Purchasers of any such minerals shall accompany the remittance for taxes deducted from settlements as provided herein, with a statement or report in a form to be prescribed by the Comptroller, showing complete information requested in such form, including name and address of producer from whom such minerals were purchased; name of the county from which such minerals were produced; name of the lease and the total amount purchased.

Sec. 42. For the occupation tax, penalties and interest herein provided for, the State shall have a prior and preferred lien on any leasehold interest, ownership of the mineral rights, or interest, including minerals produced and/or run owned by the person owing any tax therein; and in addition thereto such lien shall include equipment, tools, tanks, and all other implements used on said lease and/or premises from which such minerals are produced.

Sec. 43. It shall be the duty of the Attorney General to bring legal action for the collection of delinquent taxes herein levied, and any suit instituted for such purpose shall attach to any such minerals in storage, in transit, or being produced by such operator, and venue for such suits herein provided shall be in the District Court of Travis County, Texas.

Sec. 44. It shall be the duty of the Comptroller to promulgate rules and regulations governing the detail administration of the terms and requirements of this Act not specifically mentioned herein; to employ auditors or tax supervisors for the purpose of verifying reports and investigating the affairs of producers and/or purchasers to determine whether the tax is being properly reported and paid; to provide the necessary office help and equipment for the proper execution of the provisions of this Act, and for the purpose of defraying the necessary expense of said administration, including salaries of supervisors, auditors,

office help, filing equipment, typewriters and supplies, printing of forms, publication of regulations, postage, telephone and telegraph, traveling expenses of employees, and traveling expenses of witnesses not otherwise paid; and that all of the sums heretofore appropriated for the fiscal years beginning on September 1, 1935, and September 1st, 1936, for the enforcement of the present occupation tax on the production of sulphur, and the present occupation tax on the production of oil, and the present occupation tax on the production of natural gas, are hereby re-appropriated for the purpose of enforcing the provisions of this Act, provided that no salaries shall be paid out of said re-appropriated funds in excess of the amount of the salaries heretofore provided.

Sec. 45. For the purposes of this Act "producer" shall mean any person or persons, corporation, partnership, individual, trustee, receiver, trust estate, executor or administrator owning, controlling, managing, leasing or operating any mine and/or well in this state from which is produced sulphur, oil or gas, and shall also mean and include any person who produces in any manner any sulphur, oil or gas by taking it from the earth or waters in this State.

(2) "Purchaser" shall mean any individual, person or persons, partnership, corporation, refinery, pipe line, or agent purchasing any sulphur and/or crude oil and/or gas for any purpose or use within this State.

(3) "Carrier" shall mean the operator or owner of any means of transporting any sulphur, oil or gas or any instrumentality that may now be used or come into use for the purpose of effecting such transportation.

(4) "Sulphur" as used herein shall mean any sulphur, whether in liquid, molten or solid state, produced or taken from the earth or waters of this State.

(5) "Oil" as used herein shall mean petroleum oil, mineral oil, or other oil taken from the earth.

(6) "Gas" and "Natural Gas" as such terms are used herein shall mean and include any and all inflammable gases produced or taken from the earth or from any strata under the earth.

(7) "Reports" shall mean any reports required to be furnished in this Act or that may be required by the Comptroller in the administration of this Act.

(8) "Person" shall mean and include any person, firm, concern, receiver, trustee, executor, administrator, agent, institution, association, partnership, company, corporation, and persons acting under declarations of trust as well as the trustees acting under such declarations of trust.

(9) "Comptroller" shall mean Comptroller of Public Accounts of the State of Texas.

(10) "Minerals" shall mean and include sulphur, oil and natural gas.

Sec. 46. All such monies collected in excess of the amounts allotted under the constitution and existing laws shall be deposited to the credit of the fund created in this Act for Old Age Assistance."

Sec. 47. It is expressly declared to be the legislative intent that the several subdivisions of this Act are severable and should any Section or sub-Section of this Act be declared to be unconstitutional, it shall not affect the remaining provisions of this Act and the Legislature would have enacted such remaining provisions nevertheless, and they shall remain in full force and effect, save that it is further expressly provided that in event any of the tax hereby levied should for any reason be declared to be unconstitutional or void, then and in that event, it is the legislative intent that none of the statutes mentioned in Section 2 hereof would have been repealed, and the Legislature enacts this bill with the intention that, should any tax hereby levied be hereafter declared unconstitutional or void for any reason, the repeal provisions of Section 2 of this Act shall likewise be null and void.

Sec. 48. Emergency clause.

POAGE.

Read.

#### Points of Order.

Senator DeBerry raised a point of order against Sections 34 to 79 of S. B. No. 1 inclusive, as it would set up a sales tax, and therefore violates that section of the constitution which requires all tax raising

measures to originate in the House of Representatives.

Senator DeBerry withdrew his point of order.

Senator Holbrook raised a point of order against Sections 34 to 79, inclusive of S. B. No. 1 inclusive as it would set up a sales tax, and therefore violates that section of the constitution which requires all tax raising measures to originate in the House of Representatives.

The Chair overruled the point of order.

Senator Woodruff raised the point of order that the Poage amendment was out of order as it was a revenue raising measure.

The Chair, Lieutenant Governor Walter F. Woodul, sustained the point of order.

The question recurred on the pending Committee Amendment No. 2.

#### Previous Question.

Senator Van Zandt was recognized and moved that the Senate order the previous question on the pending Committee Amendment No. 2, to S. B. No. 1.

The motion was seconded.

The motion prevailed by viva voce vote.

The Chair stated the question was the adoption of Committee Amendment No. 2.

#### Motion to Table.

Senator Sanderford moved to table Committee Amendment No. 2.

The Chair held that the motion to table was out of order as the previous question had been ordered.

#### Point of Order.

Senator Woodruff raised the point of order on further consideration of S. B. No. 1 for the reason that it carries with it the sales tax provision, the main purpose of the bill being to raise revenue, and is out of order, in that the constitution provides that you may not levy revenues in the Senate.

The Chair overruled the point of order.

Committee Amendment No. 2 was adopted by the following vote:

**Yeas—24.**

|           |             |
|-----------|-------------|
| Beck.     | Nelson.     |
| Blackert. | Oneal.      |
| Burns.    | Pace.       |
| Collie.   | Poage.      |
| Cotten.   | Redditt.    |
| DeBerry.  | Regan.      |
| Hill.     | Shivers.    |
| Holbrook. | Small.      |
| Hopkins.  | Sulak.      |
| Hornsby.  | Van Zandt.  |
| Isbell.   | Westerfeld. |
| Moore.    | Woodruff.   |

**Nays—5.**

|         |             |
|---------|-------------|
| Davis.  | Sanderford. |
| Martin. | Stone.      |
| Neal.   |             |

**Absent—Excused.**

|           |           |
|-----------|-----------|
| Fellbaum. | Rawlings. |
|-----------|-----------|

**Personal Privilege.**

Senator Poage was recognized to speak on a point of personal privilege.

**Motion to Lay on Table.**

Senator Shivers moved to lay on the table subject to call S. B. No. 1.

**Point of Order.**

Senator Van Zandt raised the point of order that no Senator has the right to make an agreement with the Chair without getting recognition from the Chair.

The Chair overruled the point of order.

The motion to lay on the table subject to call lost by the following vote:

**Yeas—7.**

|           |          |
|-----------|----------|
| Blackert. | Neal.    |
| Burns.    | Nelson.  |
| Cotten.   | Pace.    |
| Holbrook. | Shivers. |
| Moore.    | Small.   |

**Nays—19.**

|          |             |
|----------|-------------|
| Beck.    | Martin.     |
| Collie.  | Oneal.      |
| Davis.   | Poage.      |
| DeBerry. | Redditt.    |
| Hill.    | Regan.      |
| Hopkins. | Sanderford. |
| Hornsby. | Stone.      |
| Isbell.  | Sulak.      |

|             |           |
|-------------|-----------|
| Van Zandt.  | Woodruff. |
| Westerfeld. |           |

**Absent—Excused.**

|           |           |
|-----------|-----------|
| Fellbaum. | Rawlings. |
|-----------|-----------|

Senator Van Zandt sent up the following amendment:

Amend S. B. No. 1 by adding a new provision after sub-Section C of Section 2, which shall read as follows:

(d) No person owning separate property real or personal, exceeding in value One Thousand (\$1,000.00) Dollars, or if married, owning community property real or personal, exceeding in value Two Thousand (\$2,000.00) Dollars, exclusive of homestead, and if said homestead value be not in excess of Three Thousand (\$3,000.00) Dollars, exclusive of household goods and wearing apparel, and/or shall have had an income, annuity or emoluments of office, or wages for services in excess of Three Hundred and Sixty (\$360.00) Dollars per year next preceding the year for which such old age assistance is applied for shall not be eligible for such assistance and the values herein stipulated is meant the reasonable market value thereof to be determined by the Board of Control under its own rules and regulations.

**VAN ZANDT.****Read.**

A second reading was called for.  
Pending.

**Executive Session.**

Senator Oneal moved that the Senate go into executive session at 4:40 o'clock p. m. to consider Governor's nominations.

The motion prevailed.

**After Executive Session.**

At the conclusion of executive session the Secretary informed the Journal Clerk that the following action had been taken:

**Committee Room,**

Austin, Texas, Oct. 21, 1935.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Governor's Nominations, to whom was referred the following appointments,

Have had same under consideration, and I, as Chairman of said

committee am instructed to report same back to the Senate with the recommendation that they be in all things confirmed.

To Be Members of the Board of Directors of the Pease River Flood Control District:

Six-year terms:

E. R. Brown, of Electra, Wichita County;

R. H. Nichols, of Vernon, Wilbarger County;

M. S. Henry, of Crowell, Foard County.

Four-year terms:

Harry Koch, of Quanah, Hardeman County;

Dr. Hines Clark, of Crowell, Foard County;

J. H. Allison, of Wichita Falls, Wichita County;

Two-year terms:

W. O. Jones, Sr., of Paducah, Cottle County;

C. E. Carlock, of Chillicothe, Hardeman County;

T. Edgar Johnson, of Vernon, Wilbarger County.

ONEAL, Chairman.

#### Adjournment.

On motion of Senator Holbrook the Senate at 4:49 o'clock p. m. adjourned until 10 o'clock a. m. Tuesday.

#### THIRD DAY.

Senate Chamber,

Austin, Texas,

October 22, 1935.

The Senate met at 10 o'clock a. m. pursuant to adjournment, and was called to order by Lieutenant Governor Walter F. Woodul.

The roll was called, a quorum being present, the following Senators answering to their names:

|           |             |
|-----------|-------------|
| Beck.     | Martin.     |
| Blackert. | Moore.      |
| Burns.    | Neal.       |
| Collie.   | Nelson.     |
| Cotten.   | Oneal.      |
| Davis.    | Pace.       |
| DeBerry.  | Poage.      |
| Hill.     | Rawlings.   |
| Holbrook. | Redditt.    |
| Hopkins.  | Regan.      |
| Hornsby.  | Sanderford. |
| Isbell.   | Shivers.    |

Small.  
Stone.  
Sulak.

Van Zandt.  
Westerfeld.  
Woodruff.

Absent—Excused.

Fellbaum.

Prayer by the Chaplain.

Further reading of the Journal was dispensed with on motion of Senator Redditt.

#### Petitions and Memorials.

(See Appendix.)

#### Committee Reports.

(See Appendix.)

#### Bills and Resolutions.

#### Senate Bill No. 4.

By Senators Nelson and Holbrook:  
S. B. No. 4, A bill to be entitled "An Act repealing Article 7319 of the Revised Civil Statutes of 1925; repealing Acts of 1927, Fortieth Legislature, page 25, Chapter 20, Section 1, as amended by Acts of 1927, Fortieth Legislature, First Called Session, page 195, Chapter 69, Section 1, Acts of 1927, Fortieth Legislature, First Called Session, page 195, Chapter 70, Section 1, and Acts of 1933, Forty-third Legislature, First Called Session, page 271, Chapter 98, amending Article 7320, Revised Civil Statutes of 1925, Chapter 10, providing a lien for taxes which have become delinquent since December 31, 1919, and forever barring taxes returned delinquent prior to that date; providing for certificates showing status of tax payments on property, etc.; and declaring an emergency."

Read and referred to the Committee on Finance.

#### S. C. R. No. 1.

Whereas On January 1, 1936, there will be held at the Indian Reservation near Livingston, Polk County, Texas, a celebration, celebrating the peace that has existed for one hundred years between the Alabama and Coushatti Indians, and the people of Texas; and

Whereas, This will be the first celebration commemorating the Centennial, and

Whereas, The Alabama and